



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
(Case No. 00-1290-A)

In re Application of: )  
Sammak, et al. )  
Serial No.: 10/037,285 )  
Filed: December 21, 2001 )  
For: Automated Assay for Identification of )  
Individual Cells During Kinetic Assays )

Group Art Unit: 1645

AS  
Plunkett  
3/18/03

RECEIVED

MAR 14 2003

TECH CENTER 1600/2900

INFORMATION DISCLOSURE STATEMENT

Honorable Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Dear Sir:

Pursuant to 37 C.F.R. Section 1.97 - 1.99, the Applicant wishes to make the following references of record in the above-identified application. This Information Disclosure Statement is in compliance with the continuing duty of candor as set forth in 37 C.F.R. Section 1.56. Copies of the references cited below are enclosed. These references are also listed on the enclosed PTO Form 1449.

In the judgment of the undersigned, portions of the listed references may be material to the Examiner's consideration of the presently pending claims. However, the references have not been reviewed in sufficient detail to make any other representation and, in particular, no representation is intended as to the relative relevance between references, whether cited in this or prior statements. This statement is not a representation that the listed references have effective dates early enough to be "prior art" within the meaning of 35 U.S.C. Section 102 or Section 103.

McDonnell, Boehnen, Hulbert & Berghoff  
300 S. Wacker Drive, Suite 3200  
Chicago, IL 60606  
312-913-0001

This Information Disclosure Statement is being filed:

- within three months of the filing date of a national application; within three months of the date of entry into the national stage as set forth in 37 C.F.R. § 1.491 in an international application; or before the mailing date of a first Office Action on the merits. 37 C.F.R. §1.97 (b)
- after** three months of the filing date of a national application, or the date of entry into the national stage as set forth in 37 C.F.R. § 1.491 in an international application; or **after** the mailing date of a first Office Action on the merits, but **before** the mailing date of a Final Action under 37 C.F.R. § 1.113 or a Notice of Allowance under 37 C.F.R. § 1.311 (whichever occurs first), and includes (37 C.F.R. § 1.97 (c):
  - the Certification under 37 C.F.R. § 1.97(e) (see "Certification" below)

**OR**

- the fee of \$240 set forth in 37 C.F.R. § 1.17(p) (see "Fees" below).
- after** a Final Action under 37 C.F.R. § 1.113 or a Notice of Allowance under 37 C.F.R. § 1.311 (whichever occurs first), but before, or simultaneously with, the payment of the issue fee, and includes the Certification under 37 C.F.R. § 1.97(e) (see "Certification" below), and the Petition Fee set forth in 37 C.F.R. § 1.17(i) (see "Fees" and "Method of Payment of Fees" below). Applicants hereby petitions for consideration of the Information Disclosure Statement submitted herewith and the accompanying references in examination of the subject patent application.

**CERTIFICATION**

- The **undersigned** hereby certifies that each item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign patent application not more than three months prior to the filing of the Information Disclosure Statement.
- The **undersigned** hereby certifies that no item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign patent application or, to the knowledge of the person signing the certification after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of the Information Disclosure Statement.

McDonnell, Boehnen, Hulbert & Berghoff  
300 S. Wacker Drive, Suite 3200  
Chicago, IL 60606  
312-913-0001

FEES

**No fee** is owed by the applicant(s).  
 The **IDS Fee of \$240.00** under 37 C.F.R. § 1.17(p) is enclosed herewith.  
 The **Petition Fee of \$130.00** set forth in 37 C.F.R. § 1.17(i) is enclosed herewith.

METHOD OF PAYMENT OF FEES

Attached is a check in the amount of \$240.00.  
 Charge Deposit Account No. 13-2490 in the amount of \$ . (A duplicate copy of this communication is enclosed for that purpose.)

Please charge any underpayment or credit any overpayment in connection with this communication to Deposit Account No. 13-2490. A duplicate copy of this communication is enclosed for this purpose.

**CERTIFICATE OF MAILING AS "EXPRESS MAIL" (37 CFR 1.10)** I hereby certify that this correspondence and all attached paper(s) or fee(s) is being deposited with sufficient postage, with the United States Postal Service as EXPRESS MAIL POST OFFICE TO ADDRESSEE in an envelope addressed to: The Assistant Commissioner for Patents, Washington, D.C. 20231, Attn: RO/US, with sufficient postage, on this 11<sup>th</sup> Day of March, 2003 under Express Mail Certificate No. **EL904276218US**.

Date: 3/11/03

Respectfully submitted,

  
\_\_\_\_\_  
David S. Harper  
Registration No. 42,636

**McDonnell Boehnen Hulbert & Berghoff**  
300 South Wacker Drive  
Chicago, IL 60606

Telephone: 312-913-0001  
Facsimile: 312-913-0002

**McDonnell, Boehnen, Hulbert & Berghoff**  
300 S. Wacker Drive, Suite 3200  
Chicago, IL 60606  
312-913-0001

**U.S. Patent Documents**

1. Guthrie, T.C., et al., U.S. Patent No. 5,973,732, Issued on October 26, 1999.

**Foreign Documents**

2. PCT International Publication No. WO 00/72258, published on November 30, 2000.

**Other Documents**

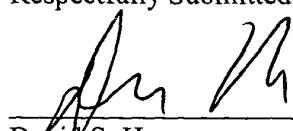
3. Giuliano, et al., "High-Content Screening: A New Approach to Easing Key Bottlenecks in the Drug Discovery Process", Journal of Biomolecular Screening, Larchmont, Ny, Us, Vol: 4(2), (1997), pp. 249-259.
4. McNally, J.G., et al., "Computational Optical-Sectioning Microscopy for 3-D Quantification of Cell Motion: Results and Challenges", Image Reconstruction and restoration, San Diego, CA, USA, 25-26 July (1994), Vol: 2302, pp. 342-351.

In accordance with MPEP Sections 609 and 707.05(b), it is requested the document cited be given thorough consideration and that it be cited of record in the prosecution history of the present application by initialing on Form PTO-1449. Such initialing is requested even if the Examiner does not consider a cited document to be sufficiently pertinent to use in a rejection, or otherwise does not consider it to be prior art for any reason, or even if the Examiner does not believe that the guidelines for citation have been fully complied with. This is requested so that each document becomes listed on the face of the patent issuing on the present application.

Respectfully Submitted,

Date: 3/11/03

By:

  
\_\_\_\_\_  
David S. Harper  
Reg. No. 42,636

McDonnell, Boehnen, Hulbert & Berghoff  
300 S. Wacker Drive, Suite 3200  
Chicago, IL 60606  
312-913-0001

FORM PTO-1449 (Rev. 2-32)	U.S. Department of Commerce Patent and Trademark Office	Atty. Docket No. 00-1290-A	Serial No. 01/037,285
SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT BY APPLICANT			
(Use several sheets if necessary)			
<b>RECEIVED</b>			
MAR 14 2003			
TECH CENTER 1600/2900			

## U.S. PATENT DOCUMENTS

Examiner Initial		Document Number	Date	Name	Class	Subclass	Filing Date if Appropriate
	1.	5,973,732	10-26-99	Thomas C. Guthrie			2-19-97

## FOREIGN PATENT DOCUMENTS

		Document Number	Date	Country	Class	Subclass	Translation
							Yes
	2.	WO 00/72258	11-30-00	PCT			x

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

3.	Giuliano, et al., "High-Content Screening: A New Approach to Easing Key Bottlenecks in the Drug Discovery Process", Journal of Biomolecular Screening, Larchmont, Ny, Us, Vol: 4(2), (1997), pp. 249-259.
4.	McNally, J.G., et al., "Computational Optical-Sectioning Microscopy for 3-D Quantification of Cell Motion: Results and Challenges", Image Reconstruction and restoration, San Diego, CA, USA, 25-26 July (1994), Vol: 2302, pp. 342-351.

EXAMINER	DATE CONSIDERED
----------	-----------------

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication.